

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code section 231C.3(1), the Department of Inspections and Appeals hereby amends Chapter 69, “Assisted Living Programs,” Iowa Administrative Code.

The amendment permits assisted living programs to provide respite care services and sets forth the requirements for providing such services.

The Department does not believe that this amendment poses a financial hardship on any regulated entity or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 25, 2014, as **ARC 1511C**. Comments were received from the Iowa Health Care Association/Iowa Center for Assisted Living (IHCA/ICAL) and the Iowa Department on Aging (IDA).

IHCA/ICAL recommended striking “for 24 hours or more” from the definition of “respite care services.” The Department has not made any change to the adopted rule because the language makes a distinction between respite care services and adult day services programs, which provide the type of care that IHCA/ICAL describes.

IHCA/ICAL also asked whether a separate contract with respite care individuals would be required or whether a program could use its current operating agreement. The rule does not require a separate contract. Assisted living programs can decide how to address respite care services in a contract that complies with the provisions of subrule 69.39(6). The Department has not made any changes to the adopted rule.

In response to comments submitted by IDA, the Department has made the following changes:

- Changed “respite care tenant” to “respite care individual” to avoid confusion between tenants of the assisted living program and individuals receiving short-term respite care services.
- Changed “involuntary discharge” to “involuntary termination of respite services” to distinguish from the involuntary transfer or discharge of assisted living tenants.
- Changed subrule 69.39(4) to clarify what is meant by “written direction to staff.”
- Added a requirement to subrule 69.39(6) that the contract include emergency contact information.

In addition, in subrules 69.39(1), 69.39(5), and 69.39(9), the phrases “respite care” and “respite services” were changed to “respite care services” in keeping with the term defined in the introductory paragraph of the rule.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 231C.3(1).

This amendment shall become effective November 19, 2014.

The following amendment is adopted.

Adopt the following new rule 481—69.39(231C):

481—69.39(231C) Respite care services. “Respite care services” means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. “Respite care individual” means an individual receiving respite care services. An assisted living program which chooses to provide respite care services must meet the following requirements related to respite care services and must be certified as an assisted living program.

69.39(1) Length of stay. Respite care services shall be provided for no more than 30 consecutive days and for a total of no more than 60 days in a consecutive 12-month period. The 12-month period begins on the first day of the respite care individual’s stay in the program.

69.39(2) No separate certificate. An assisted living program that chooses to provide respite care services is not required to obtain a separate certificate or pay a certification fee.

69.39(3) *Assessment.* The program nurse shall conduct an assessment of the respite care individual prior to the respite care individual's stay. The assessment shall be documented and shall include, at a minimum:

- a. Safety and supervision needs;
- b. Medical needs;
- c. Dietary needs; and
- d. Bowel and bladder function.

69.39(4) *Written direction to staff.* The program nurse shall document the care needs of the respite care individual based on the assessment conducted pursuant to subrule 69.39(3) and provide the documentation to staff.

69.39(5) *Involuntary termination of respite care services.* The program may terminate the respite care services for a respite care individual. Rule 481—69.24(231C) shall not apply. The program shall make proper arrangements for the welfare of the respite care individual prior to involuntary termination of respite care services, including notification of the respite care individual's family or legal representative.

69.39(6) *Contract.* The program shall have a contract with each respite care individual. The contract shall, at a minimum, include the following:

- a. The time period during which the individual will be considered to be receiving respite care services, not to exceed 30 consecutive days.
- b. A description of all fees, charges, and rates for respite care services, and any additional and optional services and their related costs.
- c. A statement that respite care services may be involuntarily terminated. Rule 481—69.24(231C) shall not apply.
- d. Identification of the party responsible for payment of fees and identification of the respite care individual's legal representative, if any.
- e. Identification of emergency contacts, including but not limited to the respite care individual's family member(s) and physician.
- f. A statement that all respite care individual information shall be maintained in a confidential manner to the extent required under state and federal law.
- g. The refund policy, if applicable.
- h. A statement regarding billing and payment procedures.

69.39(7) *Admission to program.*

- a. A respite care individual shall not be considered an admission to the program.
- b. A respite care individual shall be included in the program's census.
- c. The program shall not enter into multiple 30-day contracts with a respite care individual in order to lengthen the respite care individual's stay in the program.
- d. If a respite care individual remains in the program beyond 30 consecutive days and is eligible for admission, the department shall consider the individual a tenant in the program. The program shall follow all requirements for admission to the program.

69.39(8) *Level of care criteria.* Respite care individuals must meet the criteria found in subrule 69.23(1) for admission and retention of tenants. Respite care services shall not be provided by an assisted living program to persons requiring a level of care which is higher than the level of care the program is certified to provide.

69.39(9) *Accessibility by the department.* The department shall have the same access to respite care services records as provided in 481—subrule 67.10(2).

[Filed 9/24/14, effective 11/19/14]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/15/14.